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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,858	08/28/2003	Mitsuo Yasushi	041465-5197	6382

55694 7590 03/23/2006

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EXAMINER

ALTER, ALYSSA M

ART UNIT PAPER NUMBER

3762

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/649,858

Applicant(s)

YASUSHI ET AL.

Examiner

Alyssa M. Alter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 December 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 and 17-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 17-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____  | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Response to Arguments***

Applicant's arguments filed December 16, 2005 have been fully considered but they are not persuasive. The amendments made by the Applicant overcome the rejections under 35 U.S.C. 101 and 35 U.S.C. 112, second paragraph. For that reason, the rejections under 35 U.S.C. 101 and 112, second paragraph have been withdrawn, in addition to the claim objections. However, the 35 U.S.C. 102(b) and 103(a) rejections in view of Steinhaus et al. (US 5,215,098) still stand

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-11 stand and 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Steinhaus et al. (US 5,215,098), for reasons previously made of record.

The Applicant argues that the database of the instant application respond to the temporary buffer 80 of Steinhaus. While this may be true, the examiner stated on page 4 of the prior Office Action dated 8/19/05, "Temporary buffer 80 and storage controller 85 provide for the storage of compressed or noncompressed waveforms for some scanning compressed correlator applications. The correlator 50 correlates the input signal with a template segment of previously sampled and averaged normal sinus rhythm wave for data (NSR)"(col. 9, lines 8-14). The examiner considers the correlator

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to be the cross-correlation processing unit or performing device *and the buffer or storage to be the database.*"

With the inclusion of the "or", either the buffer OR the storage controller 85 acts as a database. Although the Applicant stated that the buffer to act as a database, the storage controller 85 can still be considered to function as a database for the system. Since the Applicant has not refuted the storage controller functioning as a database, the corresponding claims stand rejected with the storage controller being considered a database.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 12-15 stand and claims 17-18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Steinhaus et al. (US 5,215,098) as previously made of record and for reasons stated above.

As to claim 17, Steinhaus et al. discloses the claimed invention except for the control unit for calculating a standard deviation of R-R interval. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the R-R interval detection as taught by Steinhaus et al. with a calculation of standard deviations since it was known in the art that to employ standard deviations as a measure of accuracy within a data set.

As to claim 18, Steinhaus et al. discloses the claimed invention except for the search unit for searching specific intervals of the PQRSST waveform. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the search unit as taught by Steinhaus et al. to search specific intervals within a PQRSST wave since it was known in the art to utilize the morphology of the PQRSST waveform to determine the well being of a patient. Furthermore, it is also well known in the art to compare morphology of a PQRSST waveform with a template waveform.

#### ***Allowable Subject Matter***

1. The following is a statement of reasons for the indication of allowable subject matter in claim 19: The prior art of record fails to teach the equation for the calculation of time delay shift, in conjunction with other elements of the claims.

#### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyssa M. Alter whose telephone number is (571) 272-4939. The examiner can normally be reached on M-F 9am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alyssa M Alter  
Examiner  
Art Unit 3762



KENNEDY/SCHAETZLE  
PRIMARY EXAMINER

3/20/06